

House Bill 1543

By: Representatives Knox of the 24th, Fleming of the 117th, Crawford of the 127th, Mumford of the 95th, and Graves of the 12th

A BILL TO BE ENTITLED

AN ACT

To amend Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to assault and battery, so as to provide for increased penalties if assault or aggravated assault is committed against a prosecuting attorney; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to assault and battery, is amended by striking Code Section 16-5-20, relating to simple assault, and inserting in lieu thereof the following:

"16-5-20.

(a) A person commits the offense of simple assault when he or she either:

(1) Attempts to commit a violent injury to the person of another; or

(2) Commits an act which places another in reasonable apprehension of immediately receiving a violent injury.

(b) Except as provided in subsections (c) through ~~(f)~~ (g) of this Code section, a person who commits the offense of simple assault shall be guilty of a misdemeanor.

(c) Any person who commits the offense of simple assault in a public transit vehicle or station shall, upon conviction thereof, be punished for a misdemeanor of a high and aggravated nature. For purposes of this Code section, 'public transit vehicle' means a bus, van, or rail car used for the transportation of passengers within a system which receives a subsidy from tax revenues or is operated under a franchise contract with a county or municipality of this state.

(d) If the offense of simple assault is committed between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons excluding siblings living or formerly living in

1 the same household, the defendant shall be punished for a misdemeanor of a high and
2 aggravated nature. In no event shall this subsection be applicable to corporal punishment
3 administered by a parent or guardian to a child or administered by a person acting in loco
4 parentis.

5 (e) Any person who commits the offense of simple assault against a person who is 65 years
6 of age or older shall, upon conviction thereof, be punished for a misdemeanor of a high and
7 aggravated nature.

8 (f) Any person who commits the offense of simple assault against an employee of a public
9 school system of this state while such employee is engaged in official duties or on school
10 property shall, upon conviction of such offense, be punished for a misdemeanor of a high
11 and aggravated nature. For purposes of this Code section, 'school property' shall include
12 public school buses and stops for public school buses as designated by local school boards
13 of education.

14 (g) Any person who commits the offense of simple assault against a prosecuting attorney
15 shall, upon conviction thereof, be punished for a misdemeanor of a high and aggravated
16 nature."

17 SECTION 2.

18 Said article is further amended by striking Code Section 16-5-21, relating to aggravated
19 assault, and inserting in lieu thereof the following:

20 "16-5-21.

21 (a) A person commits the offense of aggravated assault when he or she assaults:

22 (1) With intent to murder, to rape, or to rob;

23 (2) With a deadly weapon or with any object, device, or instrument which, when used
24 offensively against a person, is likely to or actually does result in serious bodily injury;
25 or

26 (3) A person or persons without legal justification by discharging a firearm from within
27 a motor vehicle toward a person or persons.

28 (b) Except as provided in subsections (c) through ~~(i)~~ (j) of this Code section, a person
29 convicted of the offense of aggravated assault shall be punished by imprisonment for not
30 less than one nor more than 20 years.

31 (c) A person who knowingly commits the offense of aggravated assault upon a peace
32 officer while the peace officer is engaged in, or on account of the performance of, his or
33 her official duties shall, upon conviction thereof, be punished by imprisonment for not less
34 than five nor more than 20 years.

1 (d) Any person who commits the offense of aggravated assault against a person who is 65
2 years of age or older shall, upon conviction thereof, be punished by imprisonment for not
3 less than three nor more than 20 years.

4 (e)(1) As used in this subsection, the term 'correctional officer' shall include
5 superintendents, wardens, deputy wardens, guards, and correctional officers of state,
6 county, and municipal penal institutions who are certified by the Georgia Peace Officer
7 Standards and Training Council pursuant to Chapter 8 of Title 35 and employees of the
8 Department of Juvenile Justice who are known to be employees of the department or who
9 have given reasonable identification of their employment. The term 'correctional officer'
10 shall also include county jail officers who are certified or registered by the Georgia Peace
11 Officer Standards and Training Council pursuant to Chapter 8 of Title 35.

12 (2) A person who knowingly commits the offense of aggravated assault upon a
13 correctional officer while the correctional officer is engaged in, or on account of the
14 performance of, his or her official duties shall, upon conviction thereof, be punished by
15 imprisonment for not less than five nor more than 20 years.

16 (f) Any person who commits the offense of aggravated assault in a public transit vehicle
17 or station shall, upon conviction thereof, be punished by imprisonment for not less than
18 three nor more than 20 years. For purposes of this Code section, 'public transit vehicle' has
19 the same meaning as in subsection (c) of Code Section 16-5-20.

20 (f.1) Any person who commits the offense of aggravated assault upon a person in the
21 course of violating Code Section 16-8-2 where the property that was the subject of the theft
22 was a vehicle engaged in commercial transportation of cargo or any appurtenance thereto,
23 including without limitation any such trailer, semitrailer, container, or other associated
24 equipment, or the cargo being transported therein or thereon, shall upon conviction be
25 punished by imprisonment for not less than five years nor more than 20 years, a fine not
26 less than \$50,000.00 nor more than \$200,000.00, or both such fine and imprisonment. For
27 purposes of this subsection, the term 'vehicle' includes without limitation any railcar.

28 (g) A person convicted of an offense described in paragraph (3) of subsection (a) of this
29 Code section shall be punished by imprisonment for not less than five nor more than 20
30 years.

31 (h) Any person who commits the offense of aggravated assault involving the use of a
32 firearm upon a student or teacher or other school personnel within a school safety zone as
33 defined in paragraph (1) of subsection (a) of Code Section 16-11-127.1 shall, upon
34 conviction thereof, be punished by imprisonment for not less than five nor more than 20
35 years.

(i) If the offense of aggravated assault is committed between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons excluding siblings living or formerly living in the same household, the defendant shall be punished by imprisonment for not less than three nor more than 20 years.

(j) Any person who commits the offense of aggravated assault against a prosecuting attorney shall, upon conviction thereof, be punished by imprisonment for not less than three nor more than 20 years."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.